

ESTTA Tracking number: **ESTTA595216**Filing date: **03/28/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Adonit Co. Ltd.		
Entity	Corporation	Citizenship	Taiwan
Address	Rm. A, 9F, No. 107 Sect. 4, Ren'ai Rd, Da'an Distr Taipei, 10689 TAIWAN		

Attorney information	Jeffrey Sonnabend SonnabendLaw 600 Prospect Avenue Brooklyn, NY 11215-6012 UNITED STATES jsonnabend@sonnabendlaw.com Phone:7188328810
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Registration Subject to Cancellation

Registration No	2219350	Registration date	01/19/1999
Registrant	COMMUNICATION INTELLIGENCE CORPORATION 275 Shoreline Drive, Suite 500 Redwood Shores, CA 94065 GERMANY		

Goods/Services Subject to Cancellation

Class 009. First Use: 1997/04/04 First Use In Commerce: 1997/04/04
All goods and services in the class are cancelled, namely: computer software programs for character and handwriting recognition, and instruction manuals sold as a unit

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	Adonit cancellation petition.pdf(92206 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/JS/
Name	Jeffrey Sonnabend

Date	03/28/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 2,219,350
For the mark JOT

Adonit Co. Ltd.,

Petitioner,

v.

Communication Intelligence Corp.,

Registrant.

Cancellation No.:

CANCELLATION PETITION

Petitioner believes that it will be damaged by the continuing registration of the mark shown in the above-identified registration, and hereby seeks cancellation of the same on the following grounds.

1. Petitioner is owner of the mark JOT for products related to smart phones, tablets and other computers in the nature of styluses and other products for the same.

2. In connection with the foregoing mark, Petitioner is owner of trademark application serial no. 86/136,739 for the mark JOT for “Computer stylus; Capacitive stylus; Electronic stylus for computers; Electronic pens for computers; Parts and accessories for tablet computers; Parts and accessories for smart phones; Input devices for computers; Computer peripherals; Computer software for processing computer stylus input” in class 009.

3. Petitioner has used the JOT mark for its goods continuously since no later than November, 2011. Petitioner's use of the JOT mark for its goods has at all times been open and notorious.

4. Petitioner's pending trademark application has been refused in view of Registrant's instant registration.

5. The instant registration is for "computer software programs for character and handwriting recognition, and instruction manuals sold as a unit" in class 009. The registration issued on January 19, 1999.

6. On January 30, 2008, Registrant filed a "Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark" pursuant to sections 8 and 9 of the Lanham Act. The declaration alleged continuing use of Registrant's mark in commerce. In connection with this filing, Registrant submitted a specimen comprising a purported printout of a page from Registrant's website comprising a "users guide" for JOT branded products.

7. In connection with the section 8 and 9 filing, Registrant submitted a sworn Declaration of Use In Commerce. The Declaration of Use in Commerce stated:

Unless the owner has specifically claimed excusable non-use, the owner, or its related company, is using the mark in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

...

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are

true and that all statements made on information and belief are believed to be true.

8. Registrant's Declaration of Use in Commerce did not make any claim of excusable non-use (or, for that matter, any non-use). Registrant therefore swore under penalty of perjury that as of the time of the filing, it was "using the mark in commerce on or in connection with the goods and/or services identified" in the Declaration of Use in Commerce, namely, all the goods described in the instant registration.

9. Registrant's section 8 and 9 filing was accepted by Trademark Office, based on Registrant's sworn Declaration of Use in Commerce.

10. Contrary to Registrant's statements in its section 8 and 9 affidavit, Registrant had permanently discontinued the production and sale of JOT branded products no later than April, 2005, roughly three years prior to the section 8 and 9 filing.

11. Registrant notified consumers of Registrant's discontinuance of all JOT branded products no later than April, 2005.

12. From no later than April, 2005 until the present, Registrant has made no use of the JOT mark. Registrant's website presently has no reference to any JOT branded product or service. The web page comprising Registrant's aforementioned section 8 and 9 specimen is no longer available on Registrant's website.

13. Registrant's SEC filings have not listed or referenced any JOT branded product or service for at least the past five years.

14. On January 24, 2014, Petitioner wrote to William Keiper, President and COO of Registrant. In this letter, Petitioner advised Registrant (i) that Petitioner is and has been using since November, 2011, the JOT mark as described in Petitioner's pending application; and (ii)

that Petitioner understood that Registrant had abandoned its JOT mark. Registrant did not object to Petitioner's use of the JOT mark nor refute the allegation of abandonment.

Abandonment

15. Registrant is presumed to have abandoned the JOT mark as registered in the instant registration based on Registrant's continuous non-use of the JOT mark for a period of not less than five years.

16. The facts alleged herein evidence no intent by Registrant to resume use of the JOT mark as registered in the instant registration. To the contrary, the facts alleged herein evidence an intent by Registrant *not* to resume use of the JOT mark as registered in the instant registration.

17. Registrant has therefore abandoned the JOT mark as registered in the instant registration, and the instant registration should be canceled on this basis.

Fraudulent Declaration

18. Registrant submitted the Declaration of Use In Commerce knowing the same to be false.

19. Registrant submitted the Declaration of Use In Commerce for the purpose of convincing the Trademark Office to maintain and continue the instant registration.

20. The Trademark Office, based and in reliance on the Declaration of Use In Commerce, did in fact maintain and continue the instant registration.

21. But for the Declaration of Use In Commerce, the Trademark Office would not have maintained and continued the instant registration, but would have instead canceled the instant registration.


22. By virtue of the foregoing, Registrant has committed fraud on the Trademark Office, and the instant registration should be canceled on this basis.

As a result of the instant registration, Petitioner has been, is and will be harmed, such harm including *inter alia* the inability to register and/or use the mark JOT as described in Petitioner's pending application.

WHEREFORE, for the foregoing reasons, Petitioner requests that the above-identified registration be canceled.

Dated: March 28, 2014

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Jeffrey Sonnabend', is written over a horizontal line.

Jeffrey Sonnabend
SonnabendLaw
600 Prospect Avenue
Brooklyn, NY 11215

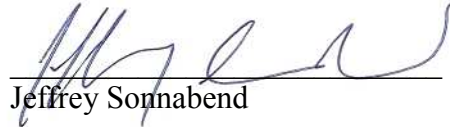
Attorney for Petitioner
Adonit Co. Ltd.

CERTIFICATE OF SERVICE

I certify that on the date indicated below, a copy of the foregoing papers were served by
United States postal mail on the following:

Communication Intelligence Corporation
d/b/a CIC
275 Shoreline Drive, Suite 500
Redwood Shores, CA 94065
UNITED STATES

Dated: March 28, 2014


Jeffrey Sonnabend